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August 23, 2013

VIA ELECTRONIC MAIL

The Honorable Denise L. Cote
Daniel Patrick Moynihan
United States Courthouse
500 Pearl Street, Room 1610
New York, NY 10007-1312

Re: FHFA v. JPMorgan Chase & Co. et al., 11 Civ. 6188 (DLC) (S.D.N.Y.)

Dear Judge Cote:

On behalf of Plaintiff Federal Housing Finance Agency (“FHFA”), we attach courtesy copies of (i) Plaintiff’s Memorandum of Law in Opposition to Defendants’ Motion for Severance; and (ii) the accompanying Declaration of Manisha M. Sheth in Support of Plaintiff’s Memorandum of Law in Opposition to Defendants’ Motion for Severance (the “Sheth Declaration”) and accompanying exhibits.

Pursuant to Section 4.A of Your Honor’s Individual Practices in Civil Cases, we request that (i) Exhibits 3, 4, and 6 be filed under seal and (ii) page 6 and footnote 13 to Plaintiff’s Memorandum of Law be partially redacted. FHFA requests these redactions because: (i) Exhibits 3, 4, and 6 contain sensitive information that FHFA reasonably believes would result in commercial or financial harm to the GSEs; (ii) Page 6 cites to the sensitive information contained in Exhibit 3; and (iii) footnote 13 contains information relating to the fact that settlement discussions occurred pursuant to a sealed order from Judge Francis. Although we do not believe additional redactions are required, this letter provides Defendants with the opportunity to propose additional redactions to Plaintiff’s Memorandum of Law and the Sheth Declaration with accompanying exhibits.

At the August 14, 2013 conference, the Court requested that FHFA inform it of FHFA’s preferred order of trials in the event the Court ordered severance. Although FHFA believes that Defendants’ motion should be denied in its entirety for the reasons set forth in Plaintiff’s Memorandum of Law, if there is severance, the order should be as follows: (i) Bear Stearns, (ii) Washington Mutual (“WaMu”), and (iii) JPMorgan. This order would resolve the largest actions first: Bear Stearns has 38 securitizations, followed by WaMu with 35 securitizations, and then JPMorgan with 30 securitizations. In addition, JPMorgan will be a Defendant in the trial of the

Redaction requests are granted
Denise Cote
9/3/13



Bear Stearns Defendants and the WaMu Defendants because of FHFA's successor liability claims. Accordingly, the resolution of either one of those cases at trial increases the likelihood that a trial on the JPMorgan Securitizations could be avoided through a global settlement. In contrast, trying the JPMorgan Securitizations first, as Defendants' propose, will do nothing to eliminate the need for a trial on the Bear Stearns or WaMu Securitizations.

Thank you for Your Honor's consideration of this submission.

Respectfully submitted,


Manisha M. Sheth

cc: Counsel of record (via e-mail)